

Bruce T. Beesley

Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
August 14, 2014

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*Attorneys for John Beach, Trustee of the
Beach Living Trust dated January 22, 1999*

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

ANTHONY THOMAS and WENDI THOMAS

- ☒ Affects AT EMERALD, LLC
☐ Affects all Debtors

Case No.: BK-N-14-50333-btb
Chapter: 11

[Lead Case – Jointly Administered]

Case No.: BK-N-14-50331-btb
Chapter: 11

**ORDER RE: SAFEGUARD
ESTATE ASSETS AND GRANTING
SHORTENED TIME TO HEAR
MOTION TO APPOINT A
TRUSTEE**

Hearing Date: August 11, 2014

Hearing Time: 11:00 a.m.

The Court held a status conference regarding: (1) the sale of the estate asset identified in the Debtor's Motion to Sell Assets Free And Clear of Liens [Dkt# 83] approved at the hearing held on July 1, 2014, by entry of the Court's order entered on July 23, 2014 [Dkt# 142], and (2) a status update on the compliance with the terms of the Court's order dated August 5, 2014 [Dkt# 157] concerning inspection of the estate asset. The Debtor appeared, by and through its attorney,

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1 Holly E. Estes, Esq. of the Law Offices of Alan R. Smith, but no representative of the Debtor
2 appeared.. Creditor, the Beach Living Trust dated January 22, 1999 (the “Beach Trust”),
3 appeared by and through its attorney, Timothy A. Lukas, Esq. of the law firm of Holland & Hart
4 LLP. The Office of the United States Trustee, appeared by and through its counsel, William B.
5 Cossitt, Esq.

6 Counsel for the Beach Trust reported to the Court that the Debtor’s principle did not
7 comply with the Court’s order dated August 5, 2014 [Dkt# 157] concerning inspection of the
8 estate asset because he failed to turn over the vault key as ordered. Debtor’s counsel was unable
9 to provide any additional information or progress on the sale. . Counsel for the Beach Trust then
10 made an oral motion requesting an order restricting further access to the estate’s vault space at
11 the Sarasota Vault wherein a valuable asset is alleged to be stored absent further order of the
12 Court in order to protect the asset and its value for the estate. Counsel for the Debtor informed
13 the Court that their office had previously sent a letter to counsel for the Sarasota Vault regarding
14 the same issue, so they had no objection to an order from the Court to insure preservation of the
15 asset pending final orders for its disposition or further access.

16 Counsel for the Breach Trust made an oral motion for shortening time to hear a motion
17 for appointment of a chapter 11 trustee given the lack of any information concerning the sale’s
18 progress, the Debtor’s disregard for the Court’s order dated August 5, 2014, and the need to
19 preserve asset’s value for the estate and its creditors.

20 **IT IS HEREBY ORDERED** that:

21 1. The Sarasota Vault shall immediately deny and no longer grant access to the
22 Debtor’s rented vault area and its assets stored therein, including but not limited to the emerald
23 represented as being stored therein by the Debtor, absent further order of this Court.

24 2. A hearing on the Beach Trust’s Motion to Appoint a Chapter 11 Trustee (the
25 “Motion”) shall be held before the Court on August 22, 2014 at 2:00 p.m. Any objections to the
26 Motion shall be filed and served no later than 4:00 p.m. on August 19, 2014, and any response to
27 any objection shall be filed and served no later than 1:00 p.m. on August 21, 2014.

28 3. The Debtor’s principle, Anthony Thomas, must appear and attend the hearing

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August 22, 2014, in order to provide testimony and facts concerning the Debtor's operations, activities and issues regarding the sales process of the emerald.

4. Wendi Thomas must appear and attend the hearing August 22, 2014, in order to provide testimony and facts concerning the Debtor's operations, activities and issues regarding the sales process of the emerald.

IT IS SO ORDERED

SUBMITTED BY:

/s/ Timothy A. Lukas
TIMOTHY A. LUKAS, ESQ.

APPROVED:

/s/ Holly E. Estes
HOLLY E. ESTES, attorney for Debtor

APPROVED:

/s/ William B. Cossitt
WILLIAM B. COSSITT, ESQ., #3484
Trial Attorney for US Trustee
Tracy Hope Davis

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement set forth in LR 9021(b)(1).

☐ No party appeared at the hearing or filed an objection to the motion.

☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below:

Attorney/Party	Approved	Disapproved	Failed to Respond
Holly E. Estes, Esq., attorney for the Debtor	X		
William B. Cossitt, Esq., OUST	X		

☐ I certify that this is a case under chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

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